

# Order

Michigan Supreme Court  
Lansing, Michigan

February 1, 2008

131459 & (80)(84)

PEOPLE OF THE STATE OF MICHIGAN,  
Plaintiff-Appellant/  
Cross-Appellee,

v

CHRISTOPHER JOHN BERNAICHE,  
Defendant-Appellee/  
Cross-Appellant.

Clifford W. Taylor,  
Chief Justice

Michael F. Cavanagh  
Elizabeth A. Weaver  
Marilyn Kelly  
Maura D. Corrigan  
Robert P. Young, Jr.  
Stephen J. Markman,  
Justices

SC: 131459  
COA: 261498  
Wayne CC: 03-001733

On order of the Court, the motion for miscellaneous relief is GRANTED. The application for leave to appeal the April 25, 2006 judgment of the Court of Appeals and the application for leave to appeal as cross-appellant are considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we REVERSE that part of the judgment of the Court of Appeals that affirmed the trial court's order granting the defendant's motion for new trial. Although the prosecutors violated their discovery obligation by failing to disclose their expert witness's supplemental report, the violation amounted to harmless error. We REMAND this case to the Court of Appeals for consideration of the issues raised by defendant in that court but not addressed, in light of its prior disposition. Leave to appeal as cross-appellant is DENIED, because we are not persuaded that the questions presented should be reviewed by this Court.

We do not retain jurisdiction.

CAVANAGH and KELLY, JJ., would deny the prosecution's application for leave to appeal.



s0129

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

February 1, 2008

*Corbin R. Davis*

Clerk